



bay restoration commission

STEWARDS OF SANTA MONICA BAY

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September 11, 2014

Agenda Item #3 a i

To: Executive Committee

Fr: Tom Ford, Executive Director

Re: Governing Board Delegation of Authority to Executive Director

Action Requested of the Executive Committee:

- Review and recommend Governing Board approval of a resolution delegating specific authority to the Executive Director.

Background

Since the inception of the SMBRC, its Executive Director (ED) has exercised authority at various levels both administratively (on the ED's own accord, at his or her discretion), as well as on policy and fiscal levels as expressly directed by the Governing Board.

The accompanying resolution memorializes the long-established practices and procedures at the SMBRC regarding the delegation of authority by the Governing Board to the ED. As the Memorandum of Agreements (MOA) serves to memorialize the working relationship between the SMBRC and The Bay Foundation, this resolution would serve to inform present and future Governing Board members, SMBRC constituents, and the general public regarding the duties of the ED.

The resolution's "Whereas" clauses are consistent with the history and documentation recorded in the SMBRC's enabling legislation, its Memorandum of Understanding (as a guiding document), and the MOA. The "Resolved" clauses specifically delineate what authority the ED has on his or her own initiative and what authority must be derived from Governing Board direction. The resolution is expressly limited to the authority of the SMBRC's ED and does not apply to the role of Executive Director to The Bay Foundation. Such authority for The Bay Foundation's Executive Director is directed by that entity's Board of Directors.





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SANTA MONICA BAY RESTORATION COMMISSION
October 16, 2014

Resolution No. 14-08

Resolution Memorializing Delegation of Authority to the Executive Director

WHEREAS, the Santa Monica Bay Restoration Commission finds:

1. The federal Clean Water Act authorizes the United States Environmental Protection Agency (USEPA), upon nomination of a state or on its own initiative, to select an estuary to be part of the National Estuary Program and to develop and approve conservation and management plans for each estuary that is part of the Program. (Clean Water Act §320.) The National Estuary Program is designed to promote collaborative watershed-based partnerships in order to develop and implement a comprehensive conservation and management plan that addresses the range of environmental problems facing the estuary, while recognizing and balancing the needs of the local community.
2. In 1988, the State of California and USEPA established the Santa Monica Bay Restoration Project (Project) as a National Estuary Program under the Clean Water Act. The Project was designated by USEPA as an agency to plan for the Santa Monica Bay's restoration and to oversee implementation of the conservation and management plan. In 1995, the Project finalized the Santa Monica Bay Restoration Plan (Bay Restoration Plan; also known as the Comprehensive Conservation and Management Plan), which defined the priority problems facing Santa Monica Bay and the actions necessary to address them.
3. In 2000, the State of California created within the State Water Resources Control Board (State Water Board) the Project. State law required that the Secretary of the California Environmental Protection Agency, in consultation with the Secretary of the Resources Agency and the Project, to make recommendations for measures to coordinate state policies to restore Santa Monica Bay. Enactment of legislation and development of a non-regulatory, locally based state entity to facilitate coordination of state programs on behalf of Santa Monica Bay was recommended.
4. In 2002, the State of California enacted legislation renaming the Project as the Santa Monica Bay Restoration Commission (Commission). (Pub. Res. Code § 30988.2(a).) It is the intent of the Legislature that the Commission is a nonregulatory, locally based state government entity established to monitor, assess, coordinate, and advise all state programs, and oversee funding that affects the beneficial uses, restoration, and enhancement of the Santa Monica Bay and its watershed. (Cal. Pub. Res. Code



§30988(d).) Implementation of the Bay Restoration Plan, approved by the State of California and the USEPA in 1995, is a primary mission of the Commission.

5. The 2002 legislation creating the Commission required the development of a Memorandum of Understanding (MOU) between state and federal agencies to ensure the coordination of state programs affecting Santa Monica Bay, to delineate the authority of the Commission and its governance structure with respect to the implementation of those state programs, and to prescribe the Commission's membership. (Cal. Pub. Res. Code §30988.2(b).) Its membership includes federal, state and local public agency officials and employees and representatives of other stakeholder interests. The Commission is composed of the Governing Board, the Bay Watershed Council, and a Technical Advisory Committee.
6. The MOU establishes the Governing Board as the key decision-making authority of the Commission. The MOU states:

“[T]he Governing Board of the Commission shall carry out the objectives of the Commission as stated in the [MOU] and any subsequent amendments, and direct the Commission staff and advisory committees to assist in implementing these objectives. The Governing Board may delegate the day-to-day functions of the Commission to an Executive Director, who, with appropriate guidance from the Governing Board, may further delegate other functions of the Commission.
7. The Commission members serve in a voluntary part-time capacity and receive no remuneration for their services. Orderly and efficient operation of the Commission, therefore, requires the Executive Director to be able to carry out the Commission's day-to-day powers and duties established in the enabling statute and the MOU.
8. On June 19, 2014, the Governing Board of the Commission, at a publicly noticed meeting, selected Tom Ford as its Executive Director.
9. The Executive Director of the Commission also acts as the Executive Director of The Bay Foundation. The delegation set forth in this Resolution does not apply to the Executive Director's duties carried out on behalf of The Bay Foundation.

NOW, THEREFORE, IT IS HEREBY RESOLVED pursuant to California Public Resources Code Sections 30988-30988.3 that:

1. The Commission delegates to its Executive Director all powers and duties to carry out and/or to supervise the activities of the Commission.

2. Such activities include, but are not limited to, implementing the Annual Work Plan, carrying out the duties and responsibilities of the Executive Director set forth in the Annual Work Plan, hiring and managing staff identified in the Annual Work Plan, negotiating legal agreements such as joint powers authorities and bringing such agreements to the Commission for adoption/approval, noticing Commission meetings, and exercising any powers and duties of the Commission, except as set forth in Paragraph 3 below.
3. The Executive Director is specifically precluded from taking the following actions:
 - Entering into binding agreements on behalf of the Commission
 - Approving Commission resolutions
 - Approving the Annual Work Plan
 - Approving the use of funds in the Santa Monica Bay Restoration Account established in the State Treasury¹
4. The Executive Director may further delegate such of his or her duties as the Executive Director deems appropriate.
5. The Commission may revoke in whole or in part any specific or implied delegation to the Executive Director.
6. The Commission's delegation of authority pursuant to this Resolution does not diminish or alter the Commission's own power to act in the first instance.

BY: _____
Micheál O'Leary
Chair, Santa Monica Bay Restoration Commission

¹ The California Legislature has never appropriated any funds into the Santa Monica Bay Restoration Account established in the State Treasury.

